

### **REMARKS/ARGUMENTS**

Applicant wishes to thank the examiner for the helpful telephonic interview on April 1, 2005. During the interview, which occurred over several telephone calls, applicant's representative discussed the contents of the primary reference cited in the Action, *Himmel* (U.S. Patent No. 6,167,441), and the elements recited in claims 1, 4-5, 8, 11-13, 15 and 22. In particular, the discussion addressed *Himmel*'s parsing, snooping and receiving (see, e.g., col. 7, line 34). No agreement was reached as to the allowability of any of the pending claims. Applicant submits the present amendment to help simplify the issues for appeal through the cancellation of claims 8 and 40 without prejudice or disclaimer, and to respectfully request reconsideration of the Action's rejections in view of the new points raised below.

Upon entry of the present amendment, claims 1-7, 9-20 and 22-39 will remain pending. In the Action, claims 1-7, 9-13, 15-19, 22-24 and 26-40 stand rejected under 35 U.S.C. 102(e) as being anticipated by *Himmel* (U.S. Patent No. 6,167,441); claims 14 and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over a combination of *Himmel*, *Aviani, Jr. et al.* and *Mason et al.* (U.S. Pub. No. 2002/0026491); and claim 20 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Himmel* and "logical reasoning."

#### **Independent Claim 22, and Dependent Claims 23-33**

Applicant begins with independent claim 22 to address a point that was not discussed during the interview. Claim 22 recites, among other features, the following two steps of transmitting:

"... d) transmitting a response to said browser program module, wherein said response includes a version of said web page in accordance with said status ..."

and

“... f) automatically transmitting a second version of said web page to said program module, said second version differing from said first version in accordance with said change in said status of said user-configurable setting.”

The Action alleges that *Himmel* discloses these same steps. To the contrary, *Himmel* does not teach or suggest transmitting two versions of a web page to a program module, “said second version differing from said first version in accordance with said change in said status of said user-configurable setting,” as recited in claim 22. Instead, *Himmel* only ever transmits one version to the requesting client (e.g., a request sent from a 60-inch television will always receive the same version of the requested page).

Furthermore, claim 22 also recites the following step regarding the header:

“... c) examining said received request for header information identifying a status of a user-configurable setting for an application for which said web browser sent said request ...”

*Himmel* teaches no such step of examining. Although *Himmel* does “parse” header information, the only information *Himmel* expects to find in the header is information identifying the browser, or identifying the version (“level”) of the browser. *Himmel* does not examine the header for any “user-configurable setting for an application for which said web browser sent said request,” as recited in claim 22.

During the interview, the examiner pointed to *Himmel* col. 7, lines 33-35 (“Based on the information from the parsing, snooping, or receiving steps, the client-smart agent determines the appropriate page to send the HTTP request.”), and alleged that this passage teaches that a font size (mentioned at col. 7, lines 52-53) can be included in the parsed request header. Applicant

respectfully disagrees. The *Himmel* font size refers to the font size of the page that is sent in response to the request – it does not however, refer to a font size setting at the requesting device. *Himmel* chooses a font size based on client device type (e.g., 60-inch television or palmtop), and not on any user-configurable setting.

Applicant submits that claim 22 distinguishes over the art of record, and is in condition for allowance for at least the aforementioned reasons. Claims 23-33 depend from claim 22, and are allowable for at least the same reasons as claim 22 and further in view of the additional advantageous features recited therein. For example, dependent claim 29 recites “[t]he method of claim 22, further comprising the step of gathering statistical information regarding applications that request said requested web page.” The Action cites *Himmel*, col. 8, lines 6-13, to show this feature. That passage does not teach or suggest any such statistical information.

**Independent Claim 1, and Dependent Claims 2-7, 9-13 and 15-20**

With regard to independent claim 1, that claim recites, among other features, “the request includes header information identifying a current setting of a dynamic characteristic of the application requesting the data.” As noted above, *Himmel* only discloses that its request header can identify the browser, and its version (or “level”). Any other information is obtained independently, using the downloaded snooper agent, or by receiving the information directly from the user in response to questions asked on a web page. As such, there is no teaching or suggestion (including the passage cited during the interview and discussed above) that other information be included in the request header. *Himmel* does not teach or suggest a request

header including “information identifying a current setting of a dynamic characteristic of the application requesting the data.”

For at least the reasons set forth above, Applicant submits that amended independent claim 1 distinguishes over the art of record. Dependent claims 2-7, 9-13 and 15-20 depend from claim 1, and are allowable for at least the same reasons as claim 1, and further in view of the various advantageous and novel features recited therein. For example, claim 7 recites “[t]he method of claim 1, wherein said header information identifies a locale setting of said application.” The Action cites *Himmel* col. 9, lines 28-30 to show this feature. However, the cited portion merely states that locale information “is usually present in the operating system and can be effectively snooped,” making clear that that information is not in the header (i.e., it is not “parsed,” it is “snooped”). There is no teaching or suggestion to place that locale information in the request’s header.

**Independent Claims 14, 34 and 38, and Dependent Claims 35-37 and 39**

Independent claims 14, 34 and 38 recite the following features found in header information:

(claim 14) “header information identifying a current setting of a dynamic characteristic of the application requesting said data”

(claim 34) “header information identifying a current setting of a dynamic characteristic of an application for which said web browser generated said request”

(claim 38) “header information identifying a current setting of a dynamic characteristic of said application program module”

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The rejections of these claims are also based on the *Himmel* reference and as discussed above, the only information contained in the *Himmel* header is the browser identification and the browser version. *Himmel* fails to teach or suggest that this information identifies a "current setting of a dynamic characteristic ..." recited in claims 14, 34 and 38, and for at least the reasons discussed above, the claims distinguish over the art of record, and are in condition for allowance. Claims 35-37 and 39 depend from 34 and 38, respectively, and are distinguishable for at least the features found in their base claims, and further in view of the advantageous and novel features recited therein.

#### **Conclusion**

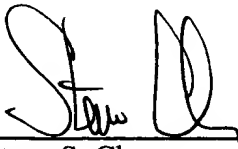
In conclusion, Applicant respectfully requests reconsideration and withdrawal of the finality of the Action and the rejections therein, and submits that remaining claims 1-7, 9-20 and 22-39 distinguish over the art of record and are in condition for allowance. However, if additional amendment and/or discussion would be helpful, the Examiner is invited to telephone Applicant's undersigned representative at the number appearing below.

Respectfully submitted,

BANNER & WITCOFF, LTD.

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